

JUDGE SWEET

08 CV 01854

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

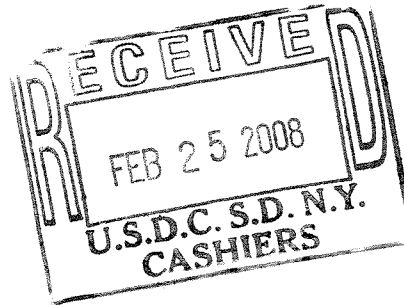
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UNITED STATES OF AMERICA,

Plaintiff,

– against –

MITSUI & CO. (U.S.A.), INC.,

Defendant.
----- x



ECF CASE

08 Civ. _____

COMPLAINT

Plaintiff, the United States of America, by its attorney, Michael J. Garcia, United States Attorney for the Southern District of New York, hereby alleges upon information and belief as follows:

1. This is a civil action brought by the United States of America, pursuant to 21 U.S.C. §§ 842(c)(1) and 961(1), to recover civil penalties from defendant Mitsui & Co. (U.S.A.), Inc. ("Mitsui") for past violations of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. § 801 et seq. (the "Act" or the "Controlled Substances Act of 1970") and its regulations, 21 C.F.R. § 1301 et seq. (the "implementing regulations") and to permanently enjoin Mitsui from continuing to violate certain provisions of the Act and its implementing regulations.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 21 U.S.C. §§ 842(c)(1), 843(f)(2), 882(a), and 28 U.S.C. §§ 1345, 1355.

3. Venue is proper in the Southern District of New York pursuant to 21 U.S.C. § 843(f)(2) and 28 U.S.C. §§ 1391(b), 1391(c), 1395(a).

THE PARTIES

4. Plaintiff is the United States of America.

5. Defendant Mitsui maintains a place of business and engages in business at 200 Park Avenue in New York, New York, within this District.

6. At all times relevant to this action, Mitsui has been engaged, inter alia, in the business of exporting Methyl Anthranilate (“MA”), an ester of Anthranilic acid, from the United States. MA is a List I chemical under the Act and its implementing regulations. See 21 U.S.C. § 802(34)(A); 21 C.F.R. § 1310.02(a)(1).

REGULATORY BACKGROUND

7. On or about November 17, 2006, the Drug Enforcement Agency (“DEA”) learned from Mitsui that Mitsui had been exporting MA from the United States, and commenced an inquiry.

8. The DEA’s inquiry revealed that Mitsui, as an exporter of the listed substance MA had violated the Act and its implementing regulations, as described more particularly in paragraphs 9 through 18, infra.

FIRST CAUSE OF ACTION

9. Mitsui failed to obtain registrations annually with the DEA as an exporter of a listed chemical notwithstanding its exports of MA between March 2002 and July 2006, as set forth in paragraphs 11-12, infra.

10. Mitsui's failure to register as an exporter was in violation of 21 U.S.C. §§ 957, 958; 21 C.F.R. §§ 1309.21, 1309.32.

SECOND CAUSE OF ACTION

11. Mitsui failed to notify the Attorney General of twelve exportations of MA that met or exceeded the threshold quantities identified in 21 C.F.R. § 1310.04(f) before the exportations took place between February 2003 and July 2006, as required by law.

12. Mitsui's failure to file such notifications was in violation of 21 U.S.C. §§ 961(1), 971(a); 21 C.F.R. § 1313.21(a).

THIRD CAUSE OF ACTION

13. Mitsui failed to complete DEA Forms 486, memorializing the exports of MA specified in paragraphs 11 to 12, as required by law.

14. Mitsui's failure to complete such forms was in violation of 21 C.F.R. § 1313.21(b).

FOURTH CAUSE OF ACTION

15. Prior to February, 2003, Mitsui failed to make, keep, or furnish records, reports, notifications, declarations, orders or order forms, statements, invoices, or information required by the Act.

16. Mitsui's record-keeping failures were in violation of 21 U.S.C. §§

842(a)(5), 842(c)(1)(B); 21 C.F.R. § 1310.03.

FIFTH CAUSE OF ACTION

17. The United States incorporates by reference paragraphs 1 through 16 above as if fully set forth herein.

18. Because of Mitsui's failure to comply with the law as set forth supra, the United States is entitled to an injunction, pursuant to 21 U.S.C. §§ 843(f) and 882, enjoining Mitsui from future violations of the Act and its implementing regulations.

WHEREFORE, the United States demands judgment in its favor and against Mitsui as follows:

(a) for a maximum statutory penalty in the amount of up to \$25,000 for each of the violations of count two pursuant to 21 U.S.C. § 961(1).

(b) for a maximum statutory penalty in the amount of up to \$10,000 for each of the violations of counts three and four pursuant to 21 U.S.C. § 842(c)(1)(B).

(c) for an order permanently enjoining Mitsui from importing or exporting listed substances in any manner which is in violation of the Act, 21 U.S.C. §§ 801 et seq., and its implementing regulations, 21 C.F.R. §§ 1301 et seq.;

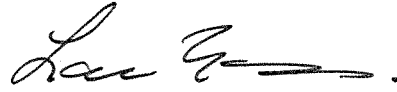
(d) for the costs of this action; and

(e) for such further relief as the Court may deem just.

Dated: New York, New York
February 22, 2008

MICHAEL J. GARCIA
United States Attorney
Southern District of New York
Attorney for Plaintiff

By:

A handwritten signature in black ink, appearing to read "Lara Eshkenazi", written over a horizontal line.

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